

§51-4.3

41 CFR Ch. 51 (7-1-09 Edition)

the following documents, transmitted by a letter signed by an officer of the wholly-owned State corporation or an official of the agency that directs the operations of the nonprofit agency, as applicable:

(i) A certified true copy of the State statute establishing or authorizing the establishment of nonprofit agency(ies) for persons who are blind or have other severe disabilities.

(ii) In the case of a wholly-owned State corporation, a certified true copy of the corporation bylaws; and, in the case of a State or local government agency, a certified true copy of implementing regulations, operating procedures, notice of establishment of the nonprofit agency, or other similar documents.

(b) The Committee shall review the documents submitted and, if they are acceptable, notify the nonprofit agency by letter, with a copy to its central nonprofit agency, that the Committee has verified its nonprofit status under the JWOD Act.

(c) A nonprofit agency shall submit two completed copies of the appropriate Initial Certification (Committee Form 401 or 402) to its central nonprofit agency at the time designated by the Committee. This requirement does not apply if a nonprofit agency is already authorized to furnish a commodity or service under the JWOD Act.

[56 FR 48980, Sept. 26, 1991, as amended at 59 FR 59342, Nov. 16, 1994]

§51-4.3 Maintaining qualification.

(a) To maintain its qualification under the JWOD Act, each nonprofit agency authorized to furnish a commodity or a service shall continue to comply with the requirements of a “nonprofit agency for other severely handicapped” or a “nonprofit agency for the blind” as defined in §51-1.3 of this chapter. In addition, each such nonprofit agency must submit to its central nonprofit agency by November 1 of each year, two completed copies of the appropriate Annual Certification (Committee Form 403 or 404) covering the fiscal year ending the preceding September 30.

(b) In addition to paragraph (a) of this section, each nonprofit agency

participating in the Ability One Program shall:

(1) Furnish commodities or services in strict accordance with Government orders.

(2) Comply with the applicable compensation, employment, and occupational health and safety standards prescribed by the Secretary of Labor, including procedures to encourage filling of vacancies within the nonprofit agency by promotion of qualified employees who are blind or have other severe disabilities.

(3) Comply with directives or requests issued by the Committee in furtherance of the objectives of the JWOD Act or its implementing regulations.

(4) Make its records available for review at any reasonable time to representatives of the Committee or the central nonprofit agency representing the nonprofit agency.

(5) Maintain records of direct labor hours performed in the nonprofit agency by each worker.

(6) Maintain a file for each blind individual performing direct labor which contains a written report reflecting visual acuity and field of vision of each eye, with best correction, signed by a person licensed to make such an evaluation, or a certification of blindness by a State or local governmental entity.

(7) Maintain in the file for each blind individual performing direct labor annual reviews of ability to engage in normal competitive employment. These reviews must be signed by an individual qualified by training and/or experience to make this determination.

(8) Maintain an ongoing placement program operated by or for the nonprofit agency to include liaison with appropriate community services such as the State employment service, employer groups and others. Those individuals determined capable and desirous of normal competitive employment shall be assisted in obtaining such employment.

(9) Upon receipt of payment by the Government for commodities or services furnished under the Ability One Program, pay to the central nonprofit agency a fee which meets the requirements of §51-3.5 of this chapter.

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(c) Each nonprofit agency employing persons with severe disabilities participating in the AbilityOne Program shall, in addition to the requirements of paragraphs (a) and (b) of this section, maintain in each individual with a severe disability's file:

(1) A written report signed by a licensed physician, psychiatrist, or qualified psychologist, reflecting the nature and extent of the disability or disabilities that cause such person to qualify as a person with a severe disability, or a certification of the disability or disabilities by a State or local governmental entity.

(2) Reports which state whether that individual is capable of engaging in normal competitive employment. These reports shall be signed by a person or persons qualified by training and experience to evaluate the work potential, interests, aptitudes, and abilities of persons with disabilities and shall normally consist of preadmission evaluations and reevaluations prepared at least annually. The file on individuals who have been in the nonprofit agency for less than two years shall contain the preadmission report and, where appropriate, the next annual reevaluation. The file on individuals who have been in the nonprofit agency for two or more years shall contain, as a minimum, the reports of the two most recent annual reevaluations.

(d) The information collection requirements of §51-4.2 and §51-4.3 and the recordkeeping requirements of §51-4.3 have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Public Law 96-511). The information collection requirements have been assigned the following OMB control numbers:

Committee form	OMB control No.
Committee form 401	3037-0004
Committee form 402	3037-0003
Committee form 403	3037-0001
Committee form 404	3037-0002

The recordkeeping requirements have been assigned OMB control number 3037-0005.

[56 FR 48980, Sept. 26, 1991; 56 FR 64002, Dec. 6, 1991, as amended at 59 FR 59343, Nov. 16, 1994; 62 FR 32237, June 13, 1997; 62 FR 66529, Dec. 19, 1997; 68 FR 53685, Sept. 12, 2003; 71 FR 68494, Nov. 27, 2006; 73 FR 28043, May 15, 2008]

§51-4.4 Subcontracting.

(a) Nonprofit agencies shall seek broad competition in the purchase of materials and components used in the commodities and services furnished to the Government under the JWOD Act. Nonprofit agencies shall inform the Committee, through their central nonprofit agency, before entering into multiyear contracts for materials or components used in the commodities and services furnished to the Government under the JWOD Act.

(b) Each nonprofit agency shall accomplish the maximum amount of subcontracting with other nonprofit agencies and small business concerns that the nonprofit agency finds to be consistent both with efficient performance in furnishing commodities or services under the JWOD Act and maximizing employment for persons who are blind or have other severe disabilities.

(c) Nonprofit agencies may subcontract a portion of the process for producing a commodity or providing a service on the Procurement List provided that the portion of the process retained by the prime nonprofit agency generates employment for persons who are blind or have other severe disabilities. Subcontracting intended to be a routine part of the production of a commodity or provision of a service shall be identified to the Committee at the time the commodity or service is proposed for addition to the Procurement List and any significant changes in the extent of subcontracting must be approved in advance by the Committee.

(d) A nonprofit agency may not subcontract the entire production process for all or a portion of an order without the Committee's prior approval.

[56 FR 48980, Sept. 26, 1991, as amended at 62 FR 66529, Dec. 19, 1997]